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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

BRIAN ANTHONY WHITE,

Defendant and Appellant.

A157155

(San Francisco County
Super. Ct. No. SCN227749)

Defendant Brian Anthony White pled guilty to robbery and was placed on probation. His probation was later revoked, and the trial court imposed a prison term of two years. His counsel has filed an opening brief raising no issues and asking this court for an independent review of the record. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant has been apprised of his right to personally file a supplemental brief, but he has not done so.

Defendant was charged with second degree robbery (Pen. Code, § 211; count 1),¹ criminal threats (§ 422; count 2), assault with a deadly weapon (§ 245, subd. (a)(1); count 3), and petty theft (§ 490.2, subd. (a); count 4). Counts 1 and 2 included allegations that defendant used a deadly weapon, a knife, in the commission of the crimes (§ 12022, subd. (b)(1)), and the complaint included prior conviction and prison term allegations.

According to the probation report, on April 22, 2017, defendant took two trays of shrimp from the shelf of a Safeway store and put them into his jacket. An employee

¹ All statutory references are to the Penal Code.

confronted him, and defendant said, with his hands in his pants pocket, “ ‘I have a knife,’ ” then walked to the front of the store without paying. The employee confronted defendant again and told him to return the items. Defendant had a switchblade knife in his hand. He pointed it at the employee and said, “ ‘If you don’t let me leave, I am going to stab you,’ ” then lunged at him with the knife and fled the scene.

Pursuant to a negotiated disposition, defendant pled guilty to count 1, and the remaining counts and the enhancement allegations were dismissed. Under the terms of the plea agreement, defendant would be placed on probation for three years. Defendant was informed of the rights he was giving up and the consequences of his plea. On August 1, 2017, the trial court suspended imposition of sentence and placed defendant on probation for three years.

The District Attorney’s office or the probation department moved to revoke defendant’s probation on August 15, 2017, November 15, 2017, January 8, 2018, and May 11, 2018. On each occasion, defendant admitted violating his probation, and the trial court reinstated probation. At the hearing on the May 11, 2018 petition, defendant waived 100 days of custody credits.

The District Attorney’s office again moved to revoke defendant’s probation on July 5 and July 17, 2018, based on two separate incidents, one in which defendant allegedly violated a stay-away order and provided false identification to a police officer, and one in which he tried to steal items from a Safeway store and became combative and resisted arrest. After being advised of the rights he was waiving, defendant admitted violating his probation, with the agreement that he would be sentenced to no more than the low term of two years in prison for the robbery.

On March 15, 2019, the trial court sentenced defendant to the low term of two years in state prison for second degree robbery (§§ 211 & 213, subd. (a)(2)), with credit for 360 actual days in custody, plus 360 days conduct credit pursuant to section 4019. The court concluded defendant had waived an additional 100 days of credit.

On March 19, 2019, after concluding defendant was not entitled to conduct credits under section 4019, the trial court vacated the sentence and appointed a new attorney to

represent defendant in deciding whether to move to withdraw his admission. After consulting with counsel, defendant decided not to do so. The trial court sentenced defendant to the low term of two years in prison, with actual credits of 401 days, and 60 days conduct credits under section 2933.1, which limits conduct credits for specified felonies (including robbery) to 15 percent. (§§ 2933.1 & 667.5, subd. (c).)

Defendant's appellate counsel has served us with a copy of a June 13, 2019 letter he wrote to the trial court pointing out that the minute order from the sentencing hearing and the abstract of judgment incorrectly indicate the two-year sentence represents the middle term, rather than the low term, for second degree robbery. (See §§ 211 & 213, subd. (a)(2).) The trial court has since corrected those clerical errors. (See *People v. Mitchell* (2001) 26 Cal.4th 181, 185 [trial court has inherent power to correct clerical errors while appeal is pending].)

There are no meritorious issues to be argued.

DISPOSITION

The judgment is affirmed.

TUCHER, J.

WE CONCUR:

POLLAK, P. J.

BROWN, J.